

Our Verdant Juror

by Sylvanus Cobb, Jr.

I give the following story as it was told to me by one of the chief actors:

In the spring of eighteen forty-five, at the March term of our Supreme Judicial court, for Franklin county, I was upon the jury for the trial of a capital case, and was appointed foreman. Six or eight jurors had been peremptorily challenged, and set aside, when the name of Samuel Starkweather was called. He was from Dunnsborough, and was certainly the most verdant specimen of the *genus homo* I had even seen summoned upon such business. He was fresh from the farm-yard; done up in the very coarsest of homespun; gawky and awkward; his tow-covered head looking like a newly laden distaff; and when anything interested him his attention was fixed with his capacious mouth open like a cavern. There was some little discussion between the counsel and the clerk and the court touching the mental qualifications of this man; but the counsel for the prisoner insisted upon his being sworn,—and sworn he was. At length the jury was complete, and the trial commenced. The case was as follows:

Some time before a peddler, carrying watches and jewelry, had been found, in the early morning, murdered and robbed, by the roadside. It was on Friday morning that his body was found. On Thursday he was seen to have two small leathern trunks, which he carried by a strap over his shoulders, filled with various articles of his traffic; and a jeweler living in a neighboring town, where Maffit had stopped, (the peddler's name was Richard Maffit,) asserted that the two trunks contained property, in watches, jewelry, and coin, to the amount of at least five thousand dollars. Thursday evening Maffit had put up at an out-of-the-way inn, half-way between Jackson and Dunnsborough. He had been seen to enter this inn, and two or three men who called for liquor during the evening saw him sitting in the bar-room; and after that he was not seen again alive. On the next morning his body had been found in a dismal willow swamp, by the roadside, not more than a quarter of a mile from the inn. His skull had been broken in by repeated blows—the surgeons said, blows by a hatchet. And yet there had been very little blood found upon the spot where the body lay.

David Brockton, the keeper of the inn, had been arrested, and was now on trial for the murder. The theory was, that Maffit had been murdered and robbed at the inn, and the body afterward conveyed to the spot where it was found. And surely the prisoner looked evil enough for the work. He was a short, square-shouldered, bull-necked and bull-headed fellow, with a low, corrugated brow; with a pair of deep-set, cunning eyes; and, altogether, combining in a remarkable degree, a keen shrewdness with intense cupidity and heartless brutality. Brockton's household consisted of himself, his wife, a daughter, and a son. He had no hired help. His wife and daughter managed affairs in the kitchen and chambers, while himself and son cared for the bar and the stable.

It appeared in evidence that Maffit had slept in a square chamber, at a rear corner of the house, and directly over the store-room—over the room where liquor and ale casks and provisions were kept. Brockton's story was that his guest had retired at about ten o'clock, stating that he should want no breakfast, as he wished to be off early enough in the morning to reach Jackson by the

time business people were astir. Before daylight the peddler was up and off. Brockton went down to let him have a glass of spirit, and also to lock the door after him. Upon reaching his chamber, the windows of which overlooked the road, the inn-keeper said he looked out, and was sure he saw a man join the peddler. The circumstance struck him as being so curious that he called his wife, and she came, and saw the same. The first gleams of coming day were then lighting up the horizon, and the wife plainly saw the peddler, with his two trunks, just turning from sight beyond the horse-shed, and a man was walking with him. The son and daughter corroborated this testimony as far as they knew.

Three men appeared upon the stand who had seen the peddler in Brockton's bar-room on that Thursday evening, one of whom heard him speak of going to bed.

The most important piece of testimony,—or at least, what seemed important at first—was that of a young man named Daniel Sprout who had been on that Thursday evening over to a small back settlement to attend a quilting-party, and who returned home some time past midnight. He came across Brockton's meadow to make a short cut, and thus passed that end of the inn where the peddler's chamber was situated. He saw a light in that back corner chamber, and wondering who could be up at that hour he stopped and looked. He saw a man, in his shirtsleeves,—he could not tell whether the man had on pantaloons or not,—he saw this man, with a light in his hand, pass the window in an oblique direction, and open a door and go out. It was dark in the room after this, and having waited a few moments without any return of the light, he had kept on his way. The witness could not tell if the man he saw were Brockton, or someone else. "I did not see his face," said Sprout. "He was going away from the window when I first saw him, and when he opened the door said door swung directly between the lamp and myself, and I saw him no more." But the Brocktons accounted for all this. They said that Maffit was up, and down two or three times during the night; and they were very sure that he kept his lamp burning.

The jury, in company with the attorneys and the sheriff, visited the inn, and gave it a thorough searching, from top to bottom. Under direction of officers the whole of the stable floor had been taken up; the cellar had been overhauled; wood-piles had been overturned; fields, stone-heaps, and wood-lots had been thoroughly explored; but without avail. No trace of blood could be found upon the premises, and no article of the dead man's pack was anywhere revealed.

In due time the case was given to the jury, and we retired for consultation. In his charge the Judge had about the same as told us that there was no evidence against the prisoner; and he had warned us that in a case like this, where life and death were in the balance, we should banish all prejudice, and be governed by the simple evidence as it had been presented.

"Well, gentleman," I said, as soon as we were alone, "I suppose there can be but one opinion in this case."

I said so, but I was very far from being satisfied. I knew that David Brockton was a villain; and I felt morally sure that he had murdered Richard Maffit. I had watched his face narrowly during the trial, and had seen evidence of the crime there many times. I was sure he was guilty, and yet we had not one particle of evidence upon which to convict him. I did not feel authorized to let my companions know my feelings; but they showed me theirs, and I found that we all thought

alike—all save our verdant friend, Samuel Starkweather. He did not seem to have much feeling in the matter anyway; but while we talked, he sat and chewed tobacco, and spit upon the floor.

At length I proposed to take the vote, which we would do by calling the names, each man answering in his turn; and in answer to the demand of the others I voted first—“*Not Guilty.*” And so all voted until the name of Samuel Starkweather was called. I had the word “*Not*” written against his name, but not hearing him answer, I looked up. He was scratching his head.

“Look ‘a here, ‘Squire,” he said, in a drawling way, “afore I gin my vote ther’s one thing I want’r understand. I dono but I ought to ‘o’ve said sumf’n aout in t’other room; but I know’d as haow’t that ere Brockton couldn’t be got clear till we’d had a confab all alone by aourselves, so I jes’ let it be. Naow what I can’t git through my wool is this: Dan. Sprout had been over tew Buttermilk Holler a countin’ Sally Doolittle,—I know!—an’ when he come home he come ‘cross lots. In course he come up by the path from Rackett’s mill to the old tavern,—he couldn’t a’ come no other way, could he?”

We acknowledged that he must have come by said path.

“Waal, then,” pursued Sam., “I should jes’ like tew know haow Dan Sprout could ‘ave looked into a winder of that ere chamber, where the peddler slept, an’ seed a door opened? There an’t but two doors in the room, ef I looked straight when we was there,—one on ‘em goes aout into the entry, an’ ‘tother into the closet—an’ both on ‘em is clear out o’ sight of anybody standin’ anywhere so’s to look into that ere end window. Naow ef Dan. Sprout seed a door open, *whar’s the door?*—That’s what I want’r know,—an’ I kind o’ kalkilate as haow I won’t say ‘Not guilty’ till I ken have one more look!”

Here was something, to be sure,—something which had not appeared to us, and of which the prosecution had not thought. As I came now to reflect I remembered that a man passing where Sprout must have passed could only have a view of the end window of the chamber, and through that window, from without, no door could possibly be seen. And Sprout had testified that the door had swung open between himself and the lamp.

We sent for the sheriff, and asked to be taken back into court. We wanted information. We were conducted back, and I informed the Court of Starkweather’s query. David Brockton turned pale as death, while his wife and son started up, and sought to leave the room; but officers detained them. A new visit was made to the old inn, Daniel Sprout accompanying us to explain the position of the door which he saw. When we reached the chamber Sprout seemed bewildered. He looked at the window, and then looked back into the room.

“I can’t see into it,” he said. “Where I thought I saw a door open must have been just about where this fireplace is.”

“Hold on!” cried Starkweather. And thus exclaiming he hurried out, and soon returned with an axe.

A heavy thump upon the jam of the fireplace revealed a hollow sound, and ere long we discovered that the fireplace was a sham—only an outside show of bricks, ingeniously arranged upon a stout oaken frame, which swung open, from floor to ceiling, upon hidden hinges. Beyond was an opening, and a flight of steps leading down to a deep, narrow vault outside the cellar wall; and here we found not only the peddler's trunks and all his wealth, but also the blood-soaked clothing of the bed upon which he had been killed. Other bedding had been put in its place. We found, furthermore, the hatchet with which the deed had been done.

We returned to court, and commenced anew,—and with what result the reader need hardly be told. I will only add, that it was an unlucky moment for David Brockton when his counsel so strenuously insisted upon retaining that VERDANT JUROR!

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